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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/837,041	04/18/2001	Terrence Ross O'Brien	ROC920000304US1	9205
7590	03/06/2006		EXAMINER	
Gero G. McClellan Thomason, Moser & Patterson, L.L.P. 3040 Post Oak Boulevard, Suite 1500 Houston, TX 77056-6582			ART UNIT	PAPER NUMBER

DATE MAILED: 03/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

### **Notice of Defective Appeal Brief**

A review of Appellant's Appeal Brief filed 1/9/2006 has revealed that the application is not ready for an Examiners Answer. Accordingly, this Notice of Defective Appeal Brief is being sent to the Appellant. The matters requiring attention prior to an Examiner's Answer are identified below:

The Appeal Brief does not comply with 37 CFR § 41.37(c). The specific errors found in the Appeal Brief are listed for the appropriate requirement needing attention:

**Summary of claimed subject matter.** A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters.

In this case a concise reference is not made, for example;

1) Appellant appears to be referencing the US PgPub, however this is not stated in the reply brief. Also, amendments have been made to the cited paragraphs found in the PGPub, therefore, the appellant is required to cite references from the originally filed specification which is a part of the prosecution file and is further required to note where the amendments may have been made to assure the reference is not misunderstood.

2) In regards to the element “wherein the request...mapped to the transformed format”, the cited paragraph has no reference to mapping and there is no indication of where the request is received from.

3) In regards to the element, “the system also includes at least one specification ... request in the transformed format”, appellant appears to infer that the word “produce” means something more than causing the metadata to be made available. The examiner notes that creating the metadata is not supported in the specification, nor is the term “produce” specifically defined and that the term “produce” is not found in the cited paragraphs. Also, please explain how items 424 and 426 are not included when 413B is the only available means to item 415 (see arrow).

4) In regards to the element “wherein the metadata comprises a plurality of meta instances.... request protocol”. Request protocols are found in the paragraph cited, but the term “metadata instances” is not.

5) In regards to the element, “the system further includes a flow manager... to call at least one application”, the cited paragraphs do not discuss a “call”. Further is the back-end flow manager 408 the flow manager in question and does the flow manager include the runtime metadata and how does process development tool (item 413A) communicate with the runtime metadata (item 422) when it appears that the data is deployed to item 422 but communications are not reciprocal.

The examiner has cited particular instances that were readily identifiable were the summary of the claimed subject matter was not clear. The appellant is responsible

for assuring that the reply brief correcting the summary is sufficient to permit one of ordinary skill in the art to readily identify appellant's claimed invention from the references given relating the claimed features to the disclosure. If the examiner finds that this is not the case the reply brief will again be considered defective.

***Evidence appendix.*** An appendix containing copies of any evidence submitted pursuant to §§ 1.130, 1.131, or 1.132 of this title or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered in the record by the examiner. Reference to un-entered evidence is not permitted in the brief. See § 41.33 for treatment of evidence submitted after appeal. This appendix may also include copies of the evidence relied upon by the examiner as to grounds of rejection to be reviewed on appeal.

A substitute brief that is in compliance with 37 CFR § 41.37(c) is required.

Since the above-mentioned Appeal Brief appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

For more information on the Board's new rules see the web page entitled  
More Information on the Rules of Practice Before the BPAI, Final Rule at:  
<http://www.uspto.aov/web/offices/dcom/bpai/fr2004/moreinfo.html>.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **(571) 272-6755**. The examiner can normally be reached Monday thru Thursday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **(571) 272-7159**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **receptionist** whose telephone number is **(571) 272-3600**.

Any response to this action should be mailed to:

***Commissioner for Patents***

***P.O. Box 1450***

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or faxed to:

**(571) 273-8300** [Official communications; including

After Final communications labeled

"Box AF"]

**(571) 273-6755** [Informal/Draft communications, labeled

"PROPOSED" or "DRAFT"]



Mark Fadok

Primary Examiner